

# Order pursuant to Section 32.01 of the Railway Safety Act (MO 21-08) Vaccination Mandate for Passengers

---

From: Transport Canada

Whereas the World Health Organization has characterized COVID-19 as a pandemic and this pandemic is affecting Canada;

Whereas, across Canada, all levels of government are taking measures to mitigate the transmission of COVID-19 or of new variants of the virus causing COVID-19 that pose risks that differ from those posed by other variants but that are equivalent or more serious;

Whereas evidence indicates that vaccines are very effective at preventing severe illness, hospitalization and death from COVID-19, including against the Alpha and Delta variants of concern and that the impact of vaccination on the frequency of outbreaks and the reduction of death rates and hospitalizations has been striking compared to the impact of other tools used prior to vaccination, including physical distancing;

Whereas, pursuant to section 32.01 of the *Railway Safety Act*, if the Minister considers it necessary in the interests of safe railway operations, the Minister may, by order sent to a company require the company to stop any activity that might constitute a threat to safe railway operations or to follow the procedures or take the corrective measures specified in the order.

Whereas, pursuant to subsection 4(4) of the *Railway Safety Act*, safe railway operations concern the safety of persons and property transported by railways and the safety of other persons and other property;

Whereas, pursuant to section 36 of the *Railway Safety Act*, the Minister may order that a company provide, in the specified form and within the specified period, information or documents that he or she considers necessary for the purposes of ensuring compliance with the *Railway Safety Act* and with the regulations, rules, orders, standards and emergency directives made under that Act.

And whereas, pursuant to section 45 of the *Railway Safety Act*, the Minister of Transport has, in writing, authorized the Director General, Rail Safety, to make an order under sections 32.01 and 36 of that Act.

Therefore, I, Michael DeJong, Director General, Rail Safety, considers it necessary in the interest of safe railway operations to make this order under sections 32.01 and 36 of the *Railway Safety Act* requiring the companies listed in Appendix A to follow the procedures set out below.

## **Section A: Proof of Vaccination**

1. Subject to Section A(3), a company listed in Appendix A of this Order must not operate railway equipment on a railway unless the company has verified that every person that may board the railway equipment, who is not railway company employee, provides either a proof of vaccination credential (PVC) or proof of a COVID-19 molecular test result that is acceptable according to Section A(2).
2. A person's COVID-19 molecular test result is only acceptable under two circumstances:
  - a. a negative result for a COVID-19 molecular test that was performed on a specimen collected no more than 72 hours before scheduled departure time ; or

- b. a positive result for such a test that was performed on a specimen collected at least 14 days and no more than 180 days before the scheduled departure time.
- 3. A company is not required to verify PVC or results of a COVID-19 molecular test result for
  - a. any person who is a resident of a community which is:
    - i. only accessible using the VIA Rail Canada Inc. The Pas-Churchill route; or
    - ii. any other remote community for whom VIA Rail Canada Inc. may be the only means of transportation; or
  - b. any person that is under the age of 12 year and four (4) months.

## **Section B: False declaration**

- 1. The company must advise every person that providing a proof of vaccination credential or proof of a COVID-19 molecular test result in a way that they know to be false or misleading may constitute fraud under the *Criminal Code*.

## **Section C: Prohibitions**

- 1. The company must not allow a person, who is not a railway company employee, to board railway equipment if the person fails to provide proof of vaccination credential or an acceptable COVID-19 molecular test result to the company, as required in Section A.

## **Section D: Privacy Requirements**

- 1. The company must ensure that personal information is only created, collected, retained, used, disclosed, and disposed of in a manner that

respects the provisions set out in applicable Canadian legislation, including but not limited to the *Privacy Act*, *Personal Information Protection and Electronic Documents Act*, or provincial privacy legislation.

2. The company must ensure that it only collects the information that is necessary to verify proof of vaccination credential or proof of a COVID-19 molecular test result of the person boarding railway equipment and the requirements of this Ministerial Order.
3. If a company uses a virtual storage provider, including a cloud storage provider, to store or back passenger or employee data related to vaccination status, the company must ensure that the provider is accredited under a current internationally recognized standard respecting information security management systems.
4. The company must ensure that data related to personal information can only be accessed on a need to know basis.

## **Section E: Data Collection Requirements**

1. A company must collect data related to the name of the person, their vaccination status and/or COVID-19 test result, or whether they fall within a category of persons described in Section A(2)(3) in a manner consistent with requirements outlined in Section D. They must retain the data for no longer than 3 months.
2. A company must report summary data to the Minister on a weekly basis on passenger volumes, and the number of denied boardings.

For the purpose of this order,

**“COVID-19”** means the coronavirus disease 2019.

**“COVID-19 molecular test”** means a COVID-19 screening or diagnostic test carried out by an accredited laboratory, including a test performed using the method of polymerase chain reaction or reverse transcription loop-mediated isothermal amplification (RT-LAMP).

**“fully vaccinated person”** means a person who, at least 14 days prior, has completed, a COVID-19 vaccine dosage regimen if:

- a. in the case of a vaccine dosage regimen that uses a COVID-19 vaccine that is authorized for sale in Canada,
  - i. the vaccine has been administered to the person in accordance with its labelling, or
  - ii. the Minister of Health determines, on the recommendation of the Chief Public Health Officer, appointed under subsection 6(1) of the *Public Health Agency of Canada Act*, that the regimen is suitable, having regard to the scientific evidence related to the efficacy of that regimen in preventing the introduction or spread of COVID-19 or any other factor relevant to preventing the introduction or spread of COVID-19; or
- b. in all other cases,
  - i. the vaccines of the regimen are authorized for sale in Canada or in another jurisdiction, and
  - ii. the Minister of Health determines, on the recommendation of the Chief Public Health Officer, appointed under subsection 6(1) of the *Public Health Agency of Canada Act*, that the vaccines and the regimen are suitable, having regard to the scientific evidence related to the efficacy of that regimen and the vaccines in preventing the introduction or spread of COVID-19 or any other

factor relevant to preventing the introduction or spread of COVID-19.

For greater certainty, a COVID-19 vaccine that is authorized for sale in Canada does not include a similar vaccine sold by the same manufacturer that has been authorized for sale in another jurisdiction.

**“proof of a COVID-19 molecular test result”** means proof that contains the following information:

- a. the name and date of birth of the person whose specimen was collected for the test;
- b. the name and civic address of the laboratory that administered the test;
- c. the date the specimen was collected and the test method used; and
- d. the test result.

An acceptable proof of a COVID-19 molecular test result includes both a paper and digital copy.

**“proof of vaccination credential”** (PVC) means evidence issued by the government or the non-governmental entity that is authorized to issue the evidence of COVID-19 vaccination in the jurisdiction in which the vaccine was administered, and must contain the following information:

- i. the name of the person who received the vaccine;
- ii. the name of the government or the name of the non-governmental entity;
- iii. the brand name or any other information that identifies the vaccine that was administered; and
- iv. the dates on which the vaccine was administered or, if the evidence is one document issued for more than one dose and the document

only specifies the date on which the most recent dose was administered, that date.

An acceptable proof of vaccination credential includes: a paper PVC; a digital PVC; or for passengers originating outside of Canada, an ArriveCAN receipt with immunization status denoted, which demonstrates that the person is fully vaccinated. In all cases, the PVC must be in English or French and any translation into English or French must be a certified translation.

This order is effective on October 30, 2021, and remains in effect until it is revoked by the Minister of Transport.

Pursuant to subsection 32.1(1) of the RSA, a person to whom an order is sent under section 32.01 of the RSA may, on the date specified in the order, file a request for a review with the Transportation Appeal Tribunal of Canada (Tribunal).

If you intend to request a review of this Order, you must file a request in writing with the Tribunal, which must be postmarked no later November 29, 2021. Requests for review must be filed with:

The Registrar  
Transportation Appeal Tribunal of Canada  
333 Laurier Avenue West, Room 1201  
Ottawa, ON  
K1A 0N5  
<http://www.tatc.gc.ca>

Pursuant to section 32.3 of the RSA an order issued under section 32.01 of the RSA shall not be stayed pending a review requested under section 32.1, an appeal under section 32.2 or a reconsideration by the Minister of Transport under subsection 32.1(5) or 32.2.(3) of the RSA.

Michael DeJong  
Director General, Rail Safety

October 29, 2021

Date

## APPENDIX A

Great Canadian Railtour Company Ltd.  
VIA Rail Canada Inc.



Transport Canada is closely monitoring the COVID-19 situation. In response, we have issued some **transportation-related measures and guidance**. Please check if any of these measures apply to you.

You may experience longer than usual wait times or partial service interruptions. If you cannot get through, please **contact us by email**.

For information on COVID-19 updates, please visit **Canada.ca/coronavirus**.

**Date modified:**

2021-10-29